

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A. NO.1693/2003

This the 8th day of July, 2003

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

Miss Poonam Kashyap D/O Ram Swaroop Kashyap,  
R/O G-22, House No. 9,  
Sector 7, Rohini,  
Delhi-110085. .... Applicant

( By Shri L.R.Khatana, Advocate )

-versus-

1. Union of India through  
Secretary, Department of  
Personnel and Training,  
North Block, New Delhi.
2. Central Vigilance Commissioner,  
Satarkta Bhawan, GPO Complex,  
INA, New Delhi.
3. Deputy Secretary (Admn.),  
Central Vigilance Commission,  
Satarkta Bhawan, GPO Complex,  
INA, New Delhi.
4. Shri Mohan Dutt Dhyani,  
Hindi Translator (Grade II),  
Central Vigilance Commission,  
Satarkta Bhawan, GPO Complex,  
INA, New Delhi. .... Respondents

O R D E R (ORAL)

Applicant has challenged Annexure A-1 dated 8.5.2003 whereby her services as Hindi Translator in the Central Vigilance Commission (CVC) which had been made on ad hoc basis w.e.f. 31.3.2003 were terminated w.e.f. 8.5.2003.

2. The learned counsel of applicant stated that applicant was appointed through the employment exchange after a written examination. The learned counsel stated that recruitment to the post of Hindi Translator Grade-II

in the CVC is governed by the provisions contained in the CVC (Hindi Translator Grade-II) Recruitment Rules, 1971, as amended in 1972 (Annexure A-6). The learned counsel stated that these rules provide the mode of recruitment for the said post as "deputation/transfer, failing which by direct recruitment". He further stated that these rules do not provide for the agency through which direct recruitment to the said post has to be made. According to the learned counsel, the first mode of recruitment to the post of Hindi Translator, namely, "deputation/transfer" having failed, applicant was appointed on the basis of "direct recruitment" for which a written test and interview were held. The learned counsel stated that though applicant's appointment was stated to be ad hoc appointment, it was in fact a regular appointment to the post of Hindi Translator. The learned counsel pointed out an illegality in the impugned order to the effect that applicant's services were terminated by Deputy Secretary (Admn.) of the CVC and not by the appointing authority, i.e., the Central Vigilance Commissioner.

3. Annexure A-3 colly. dated 25.6.2001 is the offer of appointment to applicant for the post of Hindi Translator in the CVC on ad hoc basis against a vacancy "reported to Staff Selection Commission for nomination of regular candidate". It was clarified that applicant's appointment was purely on ad hoc basis as a stop-gap-arrangement. Vide Annexure A-4 dated 17.7.2001 applicant was appointed purely on ad hoc basis stipulating that her appointment would not bestow any

*h*

claim for regular appointment. Applicant's appointment on ad hoc basis was extended from time to time on the same terms and conditions. From the documents relating to applicant's appointment as Hindi Translator, it is clear that she had been appointed on ad hoc basis. She had accepted the terms and conditions of her appointment and she knew that such appointment would not bestow any rights on her for regularisation of her services.

4. As regards the objection raised on behalf of applicant that the impugned order has not been issued by the appointing authority, i.e., the Central Vigilance Commissioner but by an incompetent officer, i.e., the Deputy Secretary (Admn.),- it is observed that her appointment order was also issued by the Deputy Secretary (Admn.) and not by the Central Vigilance Commissioner. If the officer who has terminated the services of applicant is incompetent to do so, applicant had been appointed by an incompetent officer. In any case, appointment and order of termination of services have been issued by the same authority as such the objection to the competence of the officer terminating the services of applicant cannot sustain.

5. The next point made by the learned counsel of applicant is that she had been recruited on a regular basis after the mode of 'deputation/transfer' had failed; as such she had been appointed by the mode of 'direct recruitment'. The learned counsel has stated that the agency of Staff Selection Commission (SSC) for making direct recruitment is not mentioned in the rules. Thus

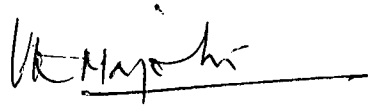
h

the vacancy could not have been reported to the SSC for nomination of regular candidate as stated in applicant's offer of appointment dated 25.6.2001. In this connection, it may be stated that applicant had not taken any exception to this when she accepted the offer of appointment and was appointed as Hindi Translator on ad hoc basis. Basically applicant cannot be allowed to raise objection to recruitment to the post of Hindi Translator through the agency of SSC at this stage when she had accepted the offer of appointment against a vacancy which had been reported to SSC for regular appointment and continued to work till now. The Government of India in the Department of Personnel and Administrative <sup>h</sup>Reforms vide its Resolution No.46/1 dated 4.11.1975 constituted a Commission called the Subordinate Selection Commission (re-named as Staff Selection Commission) effective from 26.9.1977 to make recruitment to various Class-III (now Group "C") (non-technical) posts in the various Ministries/ Departments of the Government of India and in attached and subordinate offices. The functions of the Staff Selection Commission have enlarged from time to time and recruitment to even Group "B" posts in the pay scale the maximum of which is Rs.10,500/- has been entrusted to this Commission w.e.f. 1.6.1999. Even if the aforesaid recruitment are silent in respect of the agency through which the recruitment has to be made on certain posts, reporting of vacancies to the Staff Selection Commission for regular selection on the post of Hindi Translator by the CVC is quite in order in terms of the Resolution stated above. As such, no infirmity can be found with the terms and conditions of the appointment of applicant.

h

6. The learned counsel of applicant relied on the case of C.B.Dubey v. Union of India, 1975 (1) SLR 580 (Delhi High Court) wherein it was held that if an appointment had been made after consideration of claims of others and on merit, it cannot be termed as ad hoc appointment and that only the left-out persons can challenge such appointments. This ruling is not applicable to the facts of the present case as it has not taken into consideration the constitution of the Staff Selection Commission and requirement of regular recruitment to the post in hand through the agency of Staff Selection Commission <sup>having preceded the formation of SSC</sup>. The vacancy had already been reported to SSC and offer had been made to applicant for appointment on ad hoc basis. Such an appointment cannot come in the way of regular appointment through the agency of SSC. Termination of the services of applicant in this background is in order and not illegal.

7. If one has regard to the discussion made and reasons stated above, the OA must fail and as such it is dismissed in limine.

  
( V. K. Majotra )  
Member (A)

/as/